

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:10-CR-00086-RJC-DSC

USA

v.

RONNIE LEE NEELY (1)

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ORDER

**THIS MATTER** is before the Court upon motions of the defendant pro se for appointment of counsel and for a reduction of sentence based on the First Step Act of 2018. (Doc. Nos. 104, 107).

The defendant was found guilty of conspiring to possess with intent to distribute at least 5 kilograms and at least 50 grams or more of cocaine base (Count One) and attempting to possess with intent to distribute cocaine (Count Two). (Doc. No. 51: Jury Verdict at 1-2). Combined with his prior drug trafficking conviction, (Doc. No. 20: 21 U.S.C. § 851 Notice), the statutory range of punishment for Count One was 20 years to life imprisonment.<sup>1</sup> (Doc. No. 71: Presentence Report at 16). At the sentencing hearing, the Court imposed 240 months on each count to be served concurrently, the mandatory minimum and low end of the advisory range. (Doc. No. 81: Judgment at 2; Doc. No. 92: Sent. Hr'g Tr. at 38, 43).

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<sup>1</sup> Counts Two was a violation of 21 U.S.C. § 841(b)(1)(C) which is not a “covered offense” under the First Step Act. Pub. L. 115-135, § 404(a); Fair Sentencing Act of 2010, Pub. L. 111-220, § 2 (2010).

Under the First Step Act, the Court has discretion to impose a reduced sentence as if the Fair Sentencing Act of 2010 had been in place at the time of the original offense was committed. First Step Act of 2018, Pub. L. 115-135, § 404 (2018). Here, the jury found defendant responsible for at least 5 kilograms of cocaine as part of the conspiracy in Count One. The statutory punishment for that drug type and quantity was not affected by the Fair Sentencing Act, 21 U.S.C. § 841(b)(1)(A)(ii) (2010). Accordingly, the defendant does not qualify for a sentence reduction under the First Step Act.

**IT IS, THEREFORE, ORDERED** that the defendant's motions, (Doc. No. 104, 107), are **DENIED**.

The Clerk is directed to certify copies of this Order to the defendant, the Federal Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: June 27, 2019



Robert J. Conrad, Jr.  
United States District Judge

